

HANGING IN THE BALANCE.

Close of the Great Tilton-Beecher Scandal Suit.

The Motion to Reopen the Case Denied.

JUDGE NEILSON'S CHARGE.

A Concise, Impartial and Learned Statement of the Law.

The Whole Case Covered in a Single Day.

THE JURY RETIRE TO DELIBERATE.

They Fail to Agree and Are Locked Up All Night.

"NINE TO THREE."

A Verdict Almost an Impossible Result.

EXCITING SCENES.

False Alarms—A Journalistic Row.

THE BEARING OF MR. BEECHER.

Mrs. Tilton Makes Another Statement.

The opening of the proceedings in the last day's business of the Beecher trial was quiet and unexciting. The court room was not permitted to become so full as on previous days; but, notwithstanding that the heat was almost insupportable, all the lawyers, with one or two exceptions, were present to hear the Judge's charge. The principal reason for this was that the court, and for the first time the contrast in the appearance of plaintiff and defendant was marked enough to excite interest. Beecher could hardly have looked more cheerful and animated if he had just been acquitted by the jury and applauded by an extemporized multitude of his fellow citizens. Tilton, on the contrary, was morose and weary. It would seem as if sleep had long since forsaken his eyelids and his soul become a prey to melancholy ruminations. He looked like one who had vented his last state in a perilous game and saw it slowly and irrevocably passing from him. There was much anxiety to see what counsel Judge Neilson would take in regard to the affidavits handed in on Wednesday. If the case were reopened it might run through the dog days, and, as Mr. Evans humorously remarked to a *HERALD* reporter, extend an "ethanasia" to all the lawyers and to half the jury. A very great sense of relief was experienced by almost everybody when Judge Neilson declared himself against reopening the evidence.

Even Mr. Beach looked comforted when his proposition to enter additional testimony was set aside. The character of the audience assembled on this important last day of the long trial was very varied. Every profession and almost every avocation was represented on the floor and in the gallery. The astonishing interest which this case had stirred up throughout all Christendom appeared reflected in the faces of the audience. Men and women present yesterday appeared to feel as if they were attending an inquest on character that no previous or future case could ever parallel. This sentiment was shown more fully when the jury retired. The court room presented a most remarkable sight. The whole force of Mr. Beecher's adherents had come here to see the trial. In the death of the case.

THE WAKE OF "CON, THE SHAGBARK." There is exhibited on the stage a multitude of men and women paying their last respects to the corpse. The audience are moved to tears when this scene is presented. Con is certainly a sad sight to anybody not in the secret—a bright and adventurous life suddenly brought to an extemporized pain the feeling mind.

In the scene yesterday, where the reputation of the great preacher of Plymouth church was being waked in the jury-room overhead, and the visitors down stairs were eating sandwiches and cracking jokes, one was irresistibly reminded of Con. The ideal corpse of Mr. Beecher was stretched on the table upstairs, but Mr. Beecher himself was walking in the gayest of gay humors in the flesh a flight below, bantering Caldwell here and chaffing Murray there, there never was such a

"WAITING FOR THE VERDICT." No jollier crowd under such circumstances as it was assembled ever before within the walls of a court house. Betting on the verdict of the jury was as common as if a horse race were in progress.

The mass of speculation lay between disagreement and acquittal. The Beecher people went around and announced oracularly—singular too—that the jury stood ten for acquittal and two for conviction, with the two last tending to acquittal. The Tilton partisans reversed this figure, and made it ten for Tilton and two for Beecher. No such degree of excitement was ever felt in Brooklyn as on the occasion of the announcement that the jury had retired to consider their verdict. The steps of the court house were crowded; the sidewalks along Fulton street and Fulton street were filled with groups of people earnestly discussing the probable verdict of the jury. Chief Justice Neilson, feeling like a man who had travelled with the hosts of Israel through the barren and pathless desert, and alone was allowed to enter the promised land, sat in his office, smoking his cigar and entertaining a host of visitors with reminiscences of his early youth. He, indeed, was happy. He had crossed the desert waste of legal sand and quicksands, and was now quietly resting on the turf of a green and fragrant oasis, where rest and enjoyment awaited him.

The universal opinion out of doors about Judge Neilson's speech was that it could not possibly have stirred more evenly between the two sides. Golden opinions have been rendered it, and, in the words of Junius, the greenest laurels will cluster around it, for they have been well and deservedly earned.

THE PROCEEDINGS of the day began by Judge Neilson referring to the affidavits handed up to him the day previous. Under the circumstances he decided a *t* to entertain the proposition of reopening the case. Mr. Beach asked if his Honor intended to return the affidavits, and if he did, if the court intended to withdraw them, and the answer was in the negative; whereupon Judge Neilson said he would file them with the Clerk. What passed in reference to the affidavits between the Honorable and learned counsel is given from the reports as follows:

Mr. Evans—I have not seen the affidavits, as

Your Honor is aware. I understand there were no copies of them, yet we find them in a morning paper in the city of New York.

Judge Neilson—I can only say I was applied to by a number of reporters. The gentlemen came to my house in the evening, but I declined to show them any state what they were.

Mr. Evans—Oh, Your Honor will perfectly understand that I do not mean they were allowed to be printed with your knowledge or permission. Judge Neilson—Certainly, but it is a great relief to me to state the fact.

Mr. Beach—I do not know how the affidavits came to be printed; yet they were made in order and filed with Your Honor on a motion for the admission of the new evidence which they disclosed, and they accordingly became a part of the records of this case. From that point of view they should have appeared in the official report of the case.

Judge Neilson—Still they have been in my possession since they were handed to me.

Mr. Evans—If they formed part of the official report we should have had copies of them, and we would have met them by affidavits. But Your Honor has disposed of the matter. We would have met the affidavits in the proper way.

This brought the discussion to a close. JUDGE NEILSON'S ADDRESS. Judge Neilson began his address by referring to the close of the services of the jury and the relief they were early in coming, and to the various avocations. He then alluded to a former charge of his, the language of which might be applicable to this case. He hoped to be able to help them to a clear comprehension of the question they were to consider. The body of the case was a charge of adultery, and the defence was a denial. A question of guilt or innocence may be determined from the light of surrounding circumstances. The difference between direct, presumptive and circumstantial evidence was plain enough and yet not generally comprehended. If a witness should testify that the two had occupied the same room all night or had confessed, that would be circumstantial evidence. If a letter had been written conveying suggestions of adultery, that would be presumptive evidence. In acting on presumptive evidence the jury use great care, like men travelling on unfamiliar roads in dim twilight. He referred to the manner in which Beecher received Tilton's letter by Bowen. The jury were to consider whether the defendant showed any indications of guilt; and as to the schemes and devices that were practised to cover up the truth, they must be guided by common sense and prudence. The jury should inquire carefully into the motives that actuated Mr. Beecher in the course he pursued in his policy of silence and suppression. They had before them the evidence as to what had been done and suffered by the defendant. They should weigh the injury inflicted on the plaintiff by the loss of his means of support.

REGARDING PERJURY. He looked upon it as one of the greatest of crimes, and no sentimental opinion that certain situations demanded the telling of falsehood was a temptation. He alluded to the evidence of the principal witnesses on both sides, and said that if the wrongs or offences actual or imputed were of the other character stated, then a just apprehension of the relation between the defendant's state of mind and his conduct involves several considerations. What was his personal estimate of his relation to the church, to the world, to literature and of the reputation he should leave behind him—what was his conception of the nature and gravity of the charge of impure solicitation, of alienating a woman's love from her husband, and of the effect of such accounts, if publicly made—what was his notion of the extent to which Mr. Tilton had been injured.

SCENE DURING THE JUDGE'S ADDRESS. Profound silence prevailed during the delivery of the address. All eyes were fastened on the Judge, who rattled over his charge with a clear and nimble tongue. Tilton gazed at him with a grave, confiding look, never blinking, and drinking in with deep eagerness every word falling from the lips of the sapient Judge. Beecher was much less attentive. In fact he frequently turned his head aside as if indifferent what the Judge might say. Mr. Beach was a close listener. His eyes dilated and the expression occasionally appeared to question the wisdom and impartiality of the speaker. Ex-Judge Morris sat up straight and looked both earnest and puzzled at the same time. Ex-Judge Porter was an admiring auditor, full of faith in his Honor's integrity and of pride in his legal acumen and equipment. Mr. Evans heard the address with calm glances of approval. Mr. Tracy was the best pleased man in the court room. The Judge, as far as he could afford it, vindicated Tracy. Abbott, of the defendant's counsel, gave an anxious look. Mr. Beach was a downy face. Beecher, Shearman was the only one who seemed to be out of humor. Judge Fullerton was absent till near recess, and consequently missed the charge. The general audience appeared to be very well pleased with his Honor's fairness and impartiality. The jury listened with undeviating attention up to the time the Judge began to notice the requests to charge, when they exhibited some few symptoms of weariness.

THE JURY GO OUT. No sooner had the last words of the Judge's charge been uttered than there was a perceptible flutter in the room. It was as if some one had blown a trumpet, and the jury, who had been sitting in the jury box, now rose and prepared to depart when the special officers had been sworn to take careful watch of these twelve representative exponents of modern justice. There was a strange inconsistency in the interpretation which the officers put upon the oath binding them to keep the distressed jurymen "in without meat or drink, water excepted." No sooner had the last man of the jury filed out into the corridor, up the stairs and finally into the jury room than a mysterious circuit was prepared and despatched to a restaurant, well known to the frequenters of the long trial, which read as follows:—"Nine roast beefs; three lamb; two vegetables; nine oysters; three lemons; and two shortcakes." This fact is stated, without comment, in order that it may be given due and impartial weight by the friends of the parties to the suit and of the jurymen.

EVANS AND TILTON SHAKE HANDS. The last juror had not crossed the threshold of the court room ere there was a movement of some of the counsel and many spectators from their seats. Counsel seemed suddenly relieved of the responsibility that for so many days weighed upon them. Among the first to meet the jurymen were Mr. Evans and Theodore Tilton. As their eyes met Mr. Evans was the first to speak, as he extended his hand, saying, "I hope there is no animosity, Mr. Tilton."

Theodore accepted the proffered hand in the presence of his counsel, Mr. Beach, who had joined them; but his grasp was not cordial as he politely answered:—"No, not a bit."

For a moment there was an oppressive silence, both gentlemen hesitating whether or not to speak again. Mr. Beach relieved them of their embarrassment by the remark, pointing to his client:—"No, not a bit."

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lured style, "the reopening nobody supposed would ever take place."

"Why not, sir?"

"The trial so far occupied an extravagant amount of time, and should the case have been reopened, a proceeding which the counsel on the other side appeared to seek, the beginning or next winter would not have seen the end of it. How many jurors," added the distinguished advocate, with a merry twinkle in his eye and with that dry humor which has often marked his efforts during the trial, "how many jurors might have died in the meantime; how many lawyers might have gone to sleep the sleep of the just I am at present unable to say, but certain it is, that had this case been reopened Heaven only knows when it might have terminated."

BROTHER SHEARMAN'S IDEAS. "What do I think of the charge?" said the dapper little counsel, turning round to the *HERALD* representative, his glasses looking like full-blown blue inch snags. "What do I think? We have no reason to complain, sir, none at all. Of course there were some points on which Judge Neilson charged that we may have deemed rather unfair to our side. There were also many points on which the Judge ruled which we deem more or less agreeable to our view of the evidence. On the whole the address of the Chief Justice was as impartial as it could possibly be under the circumstances. He had an extremely difficult task to perform; he was steering between Scylla and Charybdis."

"That is entirely problematical. I think I may say with absolute certainty that the jury will not enter on their own convictions, and as for the rumors of approaches having been made or of any of their number having expressed opinions in favor of our client or a resolution to acquit him I have no knowledge; neither has Mr. Beecher any knowledge, nor, in fact, anybody connected with the defendant's case."

MR. HILL'S VIEW. Mr. John B. Hill, one of the legal advocates retained for the defendant, expressed himself freely as to his impression of Chief Justice Neilson's charge:—"No charge," said he, in response to the *HERALD* reporter, "could have been more impartial when you take into consideration all the perplexing surroundings of the case. I think there can be but one opinion as to the just and able effort of the Chief Justice. His charge has given general satisfaction to all parties."

"As to the new evidence, Mr. Hill, what do you think would have been the effect of the admission, or if?"

"Well, the very fact of the Judge having declined to entertain the proposition is sufficient to indicate nothing could come of it."

MR. MORRIS' EXCITEMENT. Mr. Morris was in the height of his excitement. A jig on pins and needles could not have increased the intensity of his animation. A *HERALD* reporter asked him what he thought of the charge, and, in fact, what he thought of the whole case. He was on the jump, however, and had nothing to say. He will never next week.

WHAT MR. ABBOTT THINKS. Mr. Austin Abbott, the accomplished compiler of law reports and author of "Abbott's Digest," whose services to the defence during the course of the trial, as legal promoter to his associates, have been recognized by them in terms of the highest commendation, thought the charge of Judge Neilson a well considered and ably written document.

"So you think, Mr. Abbott," asked the reporter, "that the charge was perfectly impartial and fair toward your side of the case?"

"My answer, 'law,' said he, "are expressed in the fifty-four points submitted by me to the court yesterday, on which I requested Judge Neilson to charge. His Honor did not think it proper to direct the attention of the jury to all of them, and, of course, my views in reference to that do not agree with his, as I think he should have charged upon all of them."

Mr. Abbott declined to say anything whatever in regard to the new evidence of Loader and Price, the upholsterers, and Lays, the druggist. He thought it was a matter which lay entirely with the plaintiff's counsel. Mr. Abbott was confident that the jury would render a verdict for the defendant.

EX-JUDGE PORTER'S THOUGHTS. The ex-Judge of the Court of Appeals sat in the even-keel court room during most of the afternoon. He sought to while away the tedious hours by perusing the pages of a novel, but manifested his anxiety by frequently closing the little red volume and conversing in a low tone with Mr. Evans, who occupied a chair near him. Judge Porter looked up pleasantly from his book when approached by a reporter, and expressed his readiness to oblige any one who wished to ask him any questions on the trial and the charge to the jury. He was, he said, in the habit of commenting upon the cases of his clients. He had no hesitation, however, in saying that he thought the charge of Judge Neilson an exceedingly well legal document, and one with which he had no dissatisfaction to express. Upon the subject of the new evidence and all other matters affecting the trial Judge Porter absolutely declined to say a word.

GENERAL L. S. CATLIN'S BELIEFS. The reporter, in moving among the sweltering throng of anxious men and women who were waiting for the verdict, encountered General L. S. Catlin, of the firm of Tract, Otlin & Broadhead, and engaged in a brief conversation with him to the following purpose:—"What is your opinion, General, of the charge of Judge Neilson to the jury?"

"Well, sir, I have but one opinion on the subject, and that one will be, I think, endorsed by a majority of the Bar of Kings county, and that is, that the charge was admirable. It is a remarkable charge in every way, as it keeps clear of all entanglements of law and evidence, and nicely balances the weight and effect of each material allegation."

"What do you think of the defendant's side? How think you the counsel on the other side of the question will regard the charge?"

"No; I believe that even the counsel for plaintiff could take no exception to the studious fairness of the charge. They submitted no requests to charge. The defence did, and on those requests this Honorable jury fairly and impartially delivered a clear and intelligible charge."

"What do you think will be the effect of the newly offered and rejected evidence upon the case?"

"Well, sir, I believe that that was one of the most absurd pieces of posturing that was ever done in this city. The idea of attempting to reopen such a case at its close upon such a flimsy pretext was the height of unmeaningness, if I may use the term."

"But have not the counsel for the plaintiff a perfect right to introduce the 'alleged newly discovered evidence' in moving for a new trial?"

"Well, they may have that legal right, it is true; but I do not, for my part, believe that they will ever attempt to exercise it."

MR. FAY KENDY'S CONCEPTION. A reporter met Mr. F. Kendy, the junior counsel in the case on the Beecher side, and the following conversation took place:—"Counselor, what is your judgment of the charge of Judge Neilson to the jury?"

"My opinion is that it was very fair, and we did not anticipate anything better; in fact, it could not have been more clear, compact and terse. The defence is entirely satisfied with the result in this respect. Judge Neilson has won laurels that will not soon wither as an impartial administrator of the law in this case. Both sides recognize that fact."

"What of the new evidence—why was it excluded?"

"For good reasons. The new evidence was introduced in a way that it should have no weight, and the court rightly snubbed the lawyer who presented it. The new evidence was excluded. The country can stand the uprightness of a reputation of this evidence."

MR. KENDY'S VICTORY. While one of the bar of the great defendant was having his boots polished on the steps of the Court House he was surrounded by several of his acquaintances who admired his white hat.

may do, but it is my impression that to renew the contest would be a fortune home."

GENERAL R. F. TRACY'S IDEAS.

After dining at his Montague street residence, last evening, General Tracy walked over to the Court House. In Fulton street, just opposite the City Hall, he met Mr. Tilton and Mr. A. B. Martin, the gentleman who swore that he sat on the back piazza at Mrs. Ovington's while General Tracy conversed for two hours in the parlor with Miss Bessie Turner. Upon approaching each other, Mr. Martin, Tilton and Tracy exchanged glances, which might signify mutual scorn and hatred, but beyond this there was no sign of recognition. As the General entered the Court House he was accosted by a reporter and the following interview ensued:—"Have you any objections, General, to giving the *HERALD* your opinion of the charge of Judge Neilson to the jury?"

General Tracy—None whatever; I think it is conceded by all the counsel that the charge was perfectly fair and impartial.

Reporter—What do you think of the action of the Court in excluding the testimony of Messrs. Loader, Price and Lays?

General Tracy—I think it was perfectly just and proper. The admission of it would be wholly unprejudiced and highly injurious to the cause of justice.

Reporter—Do you place any reliance upon these statements?

General Tracy—No, sir; in my opinion they were merely put forward to influence public opinion against the defendant. They will certainly fail in their object, as the trial is a very shallow one.

Reporter—But, General, if the affidavits had been admitted, was the defence prepared to meet them in court?

General Tracy (emphatically)—Yes, sir, and we have been for three weeks. As to their influencing the jury, I have not the slightest fear of that.

Reporter—Do you think, in the event of a verdict against the defendant, that you and your associates will move for a new trial?

General Tracy—That possibility is too remote to warrant you in asking such a question. This ended the interview. General Tracy retiring from the court room, which had already been deserted by all the other lawyers.

IN THE CORRIDOR. The shadow of the last juror had not crossed the threshold of the court room before the scene of disintegration began. Such a rush for the door had never been seen on any previous occasion. It seemed as if the jury were determined to get out as fast as possible, and some friend outside to whom he wished to impart the chief features of Judge Neilson's charge.

Along the entire length of the dark and narrow corridor leading from the court room doors to the circular stairway in the front of the building, was ranged a double row of anxious faces, and each person, as he emerged from the room, was compelled to "run the gauntlet" of the tongues of the anxious watchers.

"How is it?" exclaimed one outsider.

"That did he say?" stammered a chorus of voices.

For a few moments there was a confusion of tongues, as each person essayed to tell his questioner "all about it" in a few words.

"He says that a man who would perjure himself would commit any crime," a fast-talker managed to say.

"He does full justice to Moulton's friendship," exclaimed the next.

"Dead against Tilton," said another, as he shook himself loose from a man who had clutched him by the arm, and passed on.

A conspiracy and blackmail charges were ignored, and in an instant to Beecher. "Very fair charge," exclaimed an irritable individual, without looking toward his inquirer.

"Bad, very bad for Beecher," muttered a small man, as he slipped down the side stairs.

"Gives Tracy a clean bill of health," chuckled a physician, who used to be a Quarantine commissioner, and who, amidst these scenes of excitement, clung to the memories of other days.

"Even-handed," replied a conservative.

And so the crowd, with its turmoil ever renewed, hung to the corridor, gorged the stairways and spread itself over the streets and into the adjacent parts. Rumors, wild and untrue, were spread in all directions in the City of Churches at the same time that the actual facts and the text of his Honor's charge was travelling by the telegraph to the remotest parts of the country.

WHAT OF THE VERDICT? The reaction from mere idle curiosity regarding the present to wild speculation as to the future soon followed. The multitude realized that it had no time to waste upon the Judge's charge, when the final verdict of vastly more importance, might be rendered at any moment.

The jury, which at first had been a small, quiet, and unobtrusive body, had now become a great, noisy, and excited throng. While they lingered around the temple of justice the individuals of the great crowd speculated and guessed and pretended to be able to speak knowingly regarding the verdict of the jury. It was remarked that the members of the Plymouth church party "spoke as those having authority," and spurned those who differed with them in opinion as to what the verdict should or would be.

"The jury will return within an hour with a verdict of acquittal," triumphantly exclaimed one.

"I am passive," said a plump and pompous person, who struggled in vain to sit and appear calm, but who was constantly ascending and descending the stairs to ask of the doorkeepers the latest news.

Near an alcove, in the corridor, stood the old English pie-man, who, during the memorable "Hundred Days," has always been found awake at his post. "I allow that there will be a disagreement just as sure as one of those other fellows' pills will disagree with a cast iron stomach." He looked over toward a timid, mid-faced man who, on the other side of the hall, ran an opposition trade in "pills" and "things."—"Oh, they'll disagree for sure."

A head, cadaverous young man, with a very large dose of tobacco in his right cheek, replied:—"Acquittal. Why do I think so? Because Mr. Shearman buys his victuals at my father's butcher shop."

"Every moment the case grows more desperate for Mr. Beecher," said a quiet-looking man in black to a friend as they sat on the stairs fanning themselves and thinking of the possibilities of the future as affected by the verdict.

"I am disappointed," said Alderman Whitney; "I expected the jury to rise and acquit Mr. Beecher without leaving their seats. The jury was expected to listen to two in our favor."

After saying which he meandered away toward the court room, trying meanwhile to look contented and meek.

"The delay makes disagreement certain now," was the way in which a little old man, with his hands behind his back, expressed himself.

"I am a Beecher man," replied the next specimen of living, moving curiosity, "and as such I am sorry that the affidavits were ruled out. I should rather have had them disposed of now. The verdict? Heaven only knows now. I did hope for a great triumph in the first hour; but after that has passed and the jury have not rendered their verdict I do not know what to hope for or expect."

The conversation quickly turned upon the expected verdict, when the man with the white hair, who was the "pie-man," and pulling a cigar out of his mouth, exclaimed:—"Well, I don't know, but I'll bet any of you fellows a good cigar that they will give our Henry a verdict within three hours."

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